

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1038-PWS-E **TCEQ ID:** RN101214369 **CASE NO.:** 34104  
**RESPONDENT NAME:** Martindale Water Supply Corporation

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Martindale WSC, 206 Main Street, Martindale, Caldwell County

**TYPE OF OPERATION:** Public water supply

**SMALL BUSINESS:** ☐ Yes ☒ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on December 10, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Mr. Christopher Keffer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5610; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  
**Respondent:** Mr. Tom Doddington, President, Martindale Water Supply Corporation, P.O. Box 175, Martindale, Texas 78655  
Mr. Steven Fonville, General Manager, Martindale Water Supply Corporation, P.O. Box 175, Martindale, Texas 78655  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 11, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 26 and December 9, 2005, and January 23, February 27, March 31, May 17, June 2 and 6, July 7, August 11, September 1, October 12 and 31, and December 7 and 28, 2006, and January 31, March 9, April 11, and May 7, 2007 (NOVs)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to timely submit surface water monthly operating reports [30 TEX. ADMIN. CODE §§ 290.110(e)(2) and 290.111(e)(2)].</p>	<p><b>Total Assessed:</b> \$571</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$571</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three repeated enforcement actions over the prior five year period for same or similar violations.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has submitted all required reports on August 7, 2007.</p>

Additional ID No(s): PWS No. 0280013



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES

Assigned

25-Jun-2007

PCW

29-Jun-2007

Screening

29-Jun-2007

EPA Due

28-Feb-2006

## RESPONDENT/FACILITY INFORMATION

Respondent Martindale Water Supply Corporation

Reg. Ent. Ref. No. RN101214369

Facility/Site Region 11-Austin

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 34104

Docket No. 2007-1038-PWS-E

Media Program(s) Public Water Supply

Multi-Media

No. of Violations 1

Order Type Findings

Enf. Coordinator Christopher Keffer

EC's Team EnforcementTeam 2

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$240

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

151% Enhancement

Subtotals 2, 3, & 7 \$362

Notes Enhancement recommended due to 25 Notices of Violation ("NOVs") for violations that are same or similar, three NOVs for violations that are not same or similar, and one agreed order containing a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

10% Reduction

Subtotal 5 \$24

Before NOV NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes The Respondent came into compliance on August 7, 2007.

Total EB Amounts \$85  
Approx. Cost of Compliance \$720

0% Enhancement\*  
\*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$578

OTHER FACTORS AS JUSTICE MAY REQUIRE

-1%

Adjustment -\$7

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommend reduction in penalty amount to prevent double-enhancement of the penalty due to duplicate NOVs.

Final Penalty Amount \$571

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$571

DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$571

Screening Date 29-Jun-2007

Docket No. 2007-1038-PWS-E

PCW

Respondent Martindale Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34104

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101214369

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	25	125%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 151%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement recommended due to 25 Notices of Violation ("NOVs") for violations that are same or similar, three NOVs for violations that are not same or similar, and one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 151%

Screening Date 29-Jun-2007

Docket No. 2007-1038-PWS-E

PCW

Respondent Martindale Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 34104

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101214369

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.110(e)(2) and 290.111(e)(2)

Violation Description

Failed to submit surface water monthly operating reports in a timely manner. Specifically, the facility did not timely submit the monthly reports from April 2005 through March 2007.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

## Violation Events

Number of Violation Events 24

700 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$240

Twenty-four single events are recommended (one event for each monthly report not timely submitted).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$85

Violation Final Penalty Total \$571

This violation Final Assessed Penalty (adjusted for limits) \$571

## Economic Benefit Worksheet

**Respondent** MarlIndale Water Supply Corporation  
**Case ID No.** 34104  
**Reg. Ent. Reference No.** RN101214369  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$720	1-Apr-2005	7-Aug-2007	2.4	\$85	n/a	\$85
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement reporting system and submit required reports. The Date Required is the first month the reports were not timely submitted. The Final Date is the date that the reports were submitted.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$720

TOTAL

\$85

## Compliance History

Customer/Respondent/Owner-Operator:	CN600657019	Martindale Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101214369	MARTINDALE WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0280013 0280013	
Location:	206 MAIN ST, MARTINDALE, TX, 78655			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	June 28, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 28, 2002 to June 28, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Christopher Keffer	Phone:	512-239-5610	

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

**Effective Date: 02/04/2005**

**ADMINORDER 2003-1253-MLM-E**

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]

Description: Failure to properly maintain the Facility. Specifically, failure to resurface the exterior surface on the facility's elevated storage tank which was documented to be in a deteriorated condition.

Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Description: Failure to obtain approval to discharge backwash water into or adjacent to any water in the state. Specifically, the water system was discharging backwash water into Well 2.

Classification: Minor

Citation: 2D TWC Chapter 27, SubChapter A 27.011  
30 TAC Chapter 331, SubChapter A 331.10(d)

Description: Failure to obtain approval to use Well 2 as a Class V Injection Well prior to disposing of backwash water into it.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/31/2002	(15492)
2	10/16/2003	(252433)
3	01/16/2004	(258084)
4	03/22/2004	(266443)
5	05/23/2005	(377696)
6	05/04/2006	(458887)
7	01/09/2007	(536067)
8	01/11/2007	(536345)
9	01/11/2007	(536366)
10	01/11/2007	(536439)
11	01/11/2007	(536552)
12	01/11/2007	(536380)
13	01/11/2007	(536388)
14	01/11/2007	(536347)
15	01/11/2007	(536539)
16	01/11/2007	(536528)
17	01/11/2007	(536402)
18	01/11/2007	(536349)

19 01/11/2007 (536353)  
 20 01/11/2007 (536372)  
 21 01/11/2007 (536422)  
 22 01/11/2007 (536532)  
 23 01/11/2007 (536362)  
 24 01/11/2007 (536556)  
 25 01/11/2007 (536393)  
 26 01/11/2007 (536356)  
 27 01/12/2007 (536656)  
 28 05/14/2007 (559905)  
 29 06/21/2007 (565192)  
 30 06/21/2007 (563358)  
 31 06/21/2007 (563350)  
 32 06/21/2007 (563353)  
 33 06/21/2007 (563369)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/16/2004 (258084)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(G)

Description: Failure to label the surface water treatment plant's pipes.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(G)

Description: Failure to maintain the water treatment plant in a watertight condition.

Date: 05/27/2005 (377696)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to have an air filter on the pressure tank at the plant. At the time of investigation, there was an oil trap between the air compressor and the instruments used to monitor water quality, but there was no means of protecting the water quality between the air compressor and the pressure tank.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(A)

Description: Failure to have vacuum breakers on all hose bibbs at the treatment plant. At the time of investigation, there were no vacuum breakers present on any hose bibbs at the plant.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)(G)

Description: Failure to only utilize NSF approved chemicals. At the time of investigation, the water system was utilizing salt, caustic soda, Liquichlor, and citric acid that was not documented as approved by the National Sanitation Foundation (NSF).

Date: 10/26/2005 (536353)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for August 2005

Date: 10/26/2005 (536356)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for September 2005

Date: 10/26/2005 (536067)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to report SWMOR for April 2005

Date: 10/26/2005 (536347)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for June 2005

Date: 10/26/2005 (536349)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for July 2005

Date: 10/26/2005 (536345)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for May 2005

Date: 12/09/2005 (536362)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for October 2005

**Date: 01/23/2006 (536366)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for November 2005  
**Date: 02/15/2006 (536372)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for December 2005  
**Date: 03/31/2006 (536380)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for January 2006  
**Date: 05/03/2006 (458887)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)  
 30 TAC Chapter 290, SubChapter D 290.46(f)(4)  
 Description: Failure to maintain and submit the Surface Water Monthly Operating Reports since  
 april 2005.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)  
 Description: Failure to maintain a record of calibration activities for the benchtop chlorine meter.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)  
 Description: Failure to properly calibrate the turbidimeters with a primary standard once per 90  
 days.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain the pressure reducer on Well No. 3 in a watertight condition.  
**Date: 05/17/2006 (536388)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for February 2006  
**Date: 06/02/2006 (536393)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for March 2006  
**Date: 06/06/2006 (536402)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for April 2006  
**Date: 07/07/2006 (536422)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for May 2006  
**Date: 08/11/2006 (536439)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for June 2006  
**Date: 09/01/2006 (536528)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for July 2006  
**Date: 10/12/2006 (536532)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for August 2006  
**Date: 10/31/2006 (536539)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for September 2006  
**Date: 12/07/2006 (536552)**  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
 Description: Failure to submit surface water monthly operating report for October 2006

Date: 12/28/2006 (536556)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to submit surface water monthly operating report for November 2006

Date: 01/31/2007 (563350)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to report SWMOR for December 2006.

Date: 03/09/2007 (563353)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to report SWMOR for January 2007.

Date: 04/11/2007 (563358)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to report SWMOR for February 2007.

Date: 05/07/2007 (563369)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)

Description: Failure to report SWMOR for March 2007.

Date: 05/15/2007 (559905)

Self Report? NO

Classificatio Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to provide a flow measuring device on each of the well discharge lines.

Self Report? NO

Classificatio Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to equip Well No. 3 with a casing vent.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARTINDALE WATER SUPPLY  
CORPORATION  
RN101214369**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1038-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Martindale Water Supply Corporation ("Martindale") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Martindale presented this agreement to the Commission.

Martindale understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Martindale agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Martindale.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. Martindale owns and operates a public water supply at 206 Main Street in Martindale, Caldwell County, Texas (the "Facility") that has approximately 957 service connections and serves at least 25 people per day for at least 60 days per year.



2. During a record review on April 11, 2007, TCEQ staff documented that Martindale did not timely submit any surface water monthly operating reports between April 2005 and March 2007.
3. Martindale received notices of the violations dated October 26 and December 9, 2005, and January 23, February 27, March 31, May 17, June 2 and 6, July 7, August 11, September 1, October 12 and 31, and December 7 and 28, 2006, and January 31, March 9, April 11, and May 7, 2007.
4. The Executive Director recognizes that Martindale has submitted all required reports on August 7, 2007.

## **II. CONCLUSIONS OF LAW**

1. Martindale is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, Martindale failed to timely submit surface water monthly operating reports, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(2) and 290.111(e)(2).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Martindale for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Five Hundred Seventy-One Dollars (\$571) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Martindale has paid the Five Hundred Seventy-One Dollar (\$571) administrative penalty.

## **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Martindale is assessed an administrative penalty in the amount of Five Hundred Seventy-One Dollars (\$571) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Martindale's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Martindale Water Supply Corporation, Docket No. 2007-1038-PWS-E" to:



Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Martindale. Martindale is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
4. This Agreed Order, issued by the Commission, shall not be admissible against Martindale in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
5. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
6. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John S. Miller*  
For the Executive Director

2/20/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Martindale Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Martindale Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Martindale Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Steven Fonville*  
Signature

Sept 19, 2007  
Date

STEVEN FONVILLE  
Name (Printed or typed)  
Authorized Representative of  
Martindale Water Supply Corporation

GEN. MGR.  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

